

Remarks

Upon entry of the foregoing amendment, claims 1 to 3 are pending. Claims 4 to 9 are canceled. Claims 10 to 17 are withdrawn.

Claim Rejections Under 35 USC § 112, 2nd ¶

Claims 1 to 7 were rejected by the Examiner as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "including" was cited as being confusing. Without acceding to the Examiner's assertions, applicant has amended the offending claims to remove the term "including".

Also, claim 2 was cited as requiring the structure of formula I and the definitions of the substituents thereof. Again, without acceding to the Examiner's assertions, applicant has amended claim 2 into dependent format, so that the structure and substituents of formula I from claim 1 are incorporated into amended dependent claim 2.

Claims 4 to 9 are canceled, thus Applicant respectfully asserts that any rejection to these claims is rendered moot.

Claim Rejections Under 35 USC § 102

Claims 1 to 9 were rejected by the Examiner as being anticipated by WO 2002/085860 (Jones et al.). The Jones reference has an international publication date of October 31, 2002, which is AFTER the October 7, 2002 priority date of the instant application. Accordingly, Applicant respectfully asserts that the Jones reference is not proper §102(a) art against the instant application. Applicant respectfully requests withdrawal of the rejection.

Double Patenting Rejection

Claims 1 to 9 were rejected under the doctrine of obviousness-type double patenting as being unpatentable over USSN 10/118512.

Applicant notes that the '512 application and the instant application are commonly owned by Pfizer Inc. Applicant respectfully requests the Examiner to hold this provisional double patenting rejection in abeyance until issuance of the claims in USSN 10/118512. Applicant is then willing to submit a terminal disclaimer to overcome the provisional rejection.

Conclusion

Applicant believes that no extension of time is necessary for this response. However, in the event that an extension of time is required, for which Applicant hereby petitions, authorization is hereby provided to charge any fees required under 37 CFR § 1.17, or to credit any overpayment, to Deposit Account No. 500329.

Respectfully submitted,

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